entirely released from liability for subsequent partnership obligations by any change in the membership of the firm, because he contracted to be liable for the debts of the original firm only. *University of Cambridge* v. *Baldwin*, 5 M. & W. 580; *Byers* v. *Hickman Grain Co.*, 112 Ia. 451, 84 N. W. 500; *Dupee* v. *Blake*, 148 Ill. 453, 35 N. E. 867. See 14 HARV. L. REV. 627. However, if the guaranty shows the intention of the parties that it should survive changes in the partnership, the surety will continue liable for the obligations of the new firm. See *Backhouse* v. *Hall*, 6 B. & S. 507, 520; *Burch* v. *De Rivera*, 53 Hun 367, 369, 6 N. Y. Supp. 206, 207. Likewise, since a special guaranty is held unassignable, a change in the membership of a partnership which is the creditor of the principal, discharges the surety, unless the contrary intention of the parties appears. *Pemberton* v. *Oakes*, 4 Russ. 154; *Schoonover* v. *Osborne*, 108 Ia. 453, 79 N. W. 263; *Bennett* v. *Draper*, 139 N. Y. 266, 34 N. E. 791. In one case such contrary intention was found from the fluctuating nature of the firm. *Metcalf* v. *Bruin*, 12 East 400. In the present case the fact that the sureties were ignorant of the nature of the bank's ownership seems clearly to indicate their intention that it was a guaranty of the bank as an institution not as a partnership, and thus that the guaranty should survive any change in the firm. *Cf.* *Barclay* v. *Lucas*, 1 T. R. 291, note. See BRANDT, SURETYSHIP, 3 ed., § 138.

TRUSTS — FOLLOWING TRUST PROPERTY — CONFUSION OF TRUST FUNDS WITH TRUSTEE'S OWN PROPERTY. — A trust company mingled trust funds in its possession with its general assets. It thereupon became insolvent. The injured *cestuis* claim priority to the extent of the trust funds. *Held*, that no right to priority exists. *Commonwealth* v. *Tradesmen's Trust Co.* (Nos. 1, 2, 3), 95 Atl. 574, 577, 578 (Pa.).

"An abuse of trust can confer no rights on the party abusing it, nor on those who claim in privity with him." *Taylor* v. *Plumer*, 3 M. & Sel. 562, 574. Nor does equity any longer find a difficulty in following money into a larger sum in which it has been mingled. *Knatchbull* v. *Hallett*, 13 Ch. Div. 696; *National Bank* v. *Insurance Co.*, 104 U. S. 54. See A. W. Scott, "Right to Follow Money Wrongfully Mingled with Other Money," 27 HARV. L. REV. 125. It should make no difference that the sum in which the funds are mingled is the trustee's whole estate. Of course if the funds themselves have been expended the *res* is gone and the *cestui* can have no priority. *Bircher* v. *Walther*, 163 Mo. 461, 63 S. W. 691; *Metropolitan National Bank* v. *Campbell Commission Co.*, 77 Fed. 705. But after an improper mixture the trustee must show that the funds he has expended from the mass are the *cestui's* part of it. *Knatchbull* v. *Hallett*, *supra;* *Widman* v. *Kellogg*, 22 N. Dak. 396, 133 N. W. 1020. And if the funds have been paid into the estate and not paid out again, the *res* is there, and equity should follow it. *Harrison* v. *Smith*, 83 Mo. 210; *People* v. *City Bank of Rochester*, 96 N. Y. 32; *McLeod* v. *Evans*, 66 Wis. 401. See S. Williston, "Right to Follow Trust Property," 2 HARV. L. REV. 28, 36. See *contra*, *Empire State Surety Co.* v. *Carroll County*, 194 Fed. 593. Priority is here denied on the old ground that money has no earmarks. The necessary corollary is fearlessly applied: the *cestuis* are postponed to the insolvent's general depositors under a statute preferring depositors before ordinary creditors.

WILLS — PRESUMPTION OF SURVIVORSHIP — DISPOSITION WHERE TESTATOR AND PRINCIPAL BENEFICIARY DIE IN SAME DISASTER. — A husband and wife each named the other as principal beneficiary in their wills, each providing that if the other died first, their foster son should become the sole beneficiary. Both were frozen to death in a snowstorm, there being no evidence tending to show which died first. The next of kin now contest the foster son's